



DEPARTMENT OF THE TREASURY  
INTERNAL REVENUE SERVICE  
WASHINGTON, D.C. 20224

November 15, 2007

**TS-08-03**

MEMORANDUM FOR DIRECTOR, FIELD OPERATIONS - EAST  
DIRECTOR, FIELD OPERATIONS - WEST  
DIRECTOR, APPEALS PROCESSING SERVICES  
DIRECTOR, TECHNICAL GUIDANCE

FROM: Diane S. Ryan /s/ *Diane S. Ryan*  
Director, Technical Services

SUBJECT: Appeals Procedures for California Disaster Assistance Cases

On October 24, 2007, the President declared the State of California as a disaster area with certain counties determined by the Federal Emergency Management Agency (FEMA) to be eligible for Individual Assistance under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. §§ 5121-5206 (Stafford Act). The Presidential declaration was made after wildfires occurred on October 21, 2007.

A Service determination has been made to implement (-O) Freezes for all affected taxpayers. This designation will suspend "enforcement activity" during the disaster relief period beginning October 21, 2007 and ending January 31, 2008. See attachment.

The purpose of this memorandum is to provide guidance to Appeals employees who currently have cases for taxpayers who have been impacted by the recent wildfires in California and are considered "affected taxpayers."

Appeals will mirror the guidance issued by Compliance for cases currently in process within their organizations. As such, the following instructions cover the majority of the circumstances to be found in Appeals cases. However, if you have any questions on how to proceed with a particular case, please contact your immediate manager. As always, Appeals employees should exercise a great deal of caution, sensitivity and good judgment in dealing with affected taxpayers.

Code Section 7508A permits a postponement of the time to perform specified acts for taxpayers affected by a Presidentially declared disaster. Regulation Section 301.7508A-1 spells out the tax-related deadlines to be postponed. Please remember that these postponements are for affected taxpayers, as identified by the IRS, for a period running through January 31, 2008.

### **Acts Postponed for “Affected Taxpayers” or Other Relief Granted**

- Filing any return of income, estate, gift, generation-skipping transfer, excise or employment tax.
- Paying any income, estate, gift, generation-skipping transfer, excise or employment tax, including making estimated tax payments.
- Making certain contributions, distributions, recharacterizing distributions, or making a rollover to or from a qualified retirement plan.
- Filing petitions with the Tax Court.
- Filing a claim for credit or refund of any tax.
- Bringing suit upon a claim for credit or refund.
- Any other act specified in a revenue ruling, revenue procedure, notice, announcement, news release, or other guidance published in the Internal Revenue Bulletin.

### **IRS Acts Postponed**

- Making an assessment of any tax.
- Issuing a statutory notice of deficiency (if the deadline for issuing a SNOD falls within the disaster relief period, then the IRS technically has until the last day of the period to issue the SNOD). However, see “Statute Protection” below.
- Allowing a credit or refund of any tax.
- Collecting by levy or otherwise the amount of any tax liability.
- Bringing suit by the United States with respect to any tax liability.
- Returning property under section 6343.
- Discharge of an executor from personal liability for a decedent's taxes under section 6905.
- Issuing a Notice of Final Partnership Administrative Adjustment (FPAA) to the Tax Matters Partner under section 6223 with respect to the tax attributable to the partnership items of partners of any partnership subject to TEFRA proceedings that is an affected taxpayer. However, see “Statute Protection” below.

### **Statute Protection**

While the IRS will suspend much of its Compliance activity for affected taxpayers, an overriding concern is to protect statutes. Counsel has advised in previous disasters that the IRS can take actions to protect statutes, while still considering the needs of affected taxpayers. This can include requesting affected taxpayers extend the assessment statute to give them time to recover, while still protecting the government's interests. If taxpayers refuse to extend the assessment statute, the IRS can and should take actions to issue SNODs or FPAAs before the expiration of the assessment period. The decision to proceed with any case activities should be made by the Appeals employee after consultation with their manager and possibly Counsel, as well.

### **1. New Case Receipts**

- Appeals will issue the attached "soft contact" letter to all newly received cases during the suspension period. Notice 1155 should be used as a stuffer with the "soft contact" letter. If the taxpayers indicate that they are "affected taxpayers," we will hold their case in suspense until January 31, 2008.

### **2. In Process Cases**

- Docketed Cases - The United States Tax Court is maintaining its calendar schedule as arranged for dates up through spring sessions. However, judges will be lenient with requests for continuances. With this in mind, Appeals employees should continue working docketed cases in inventory and as assigned. However, if a taxpayer indicates that they have been affected by the fires and it will delay or halt their ability to attempt resolution of their case, the Appeals employee should stop work on the case and confer with the Counsel attorney who is assigned the docketed case.
- Non-Docketed Cases - Cases will be worked on a "case by case" basis. "Affected Taxpayers" should be provided an opportunity to defer their appeal for a reasonable period of time. The consideration of an in process Examination sourced case can continue as long as the taxpayer agrees and is able to proceed.
- Collection Work Streams - All Appeals Collection cases will also be worked on a case by case basis and the taxpayer will be provided an opportunity to defer their appeal for a reasonable period of time.
- It should be clearly explained to the taxpayer and fully documented in the case file that the purpose of the soft contact is solely to determine the taxpayer's condition and provide them the option of deferring or continuing their appeal.
- If the taxpayer does not respond or cannot be contacted then suspend the case for the duration of the disaster relief period unless exigent circumstances exist such as the imminent expiration of a statute of limitation for assessment or collection.

### **3. Case Closures**

- Please refer to the IRS acts postponed above as defined in Regulation Section 301.7508A -1.

All actions and discussions with affected taxpayers and/or representatives should be fully documented on the ACDS case activity record.

If you have any questions, please contact Program Analyst Beth Thurston at (949) 389-5486 or Deane Chakalis at (281) 721-7235.

## ATTACHMENT 1

DATE: October 29, 2007

### MEMORANDUM FOR DISTRIBUTION

FROM: */s/ Angela Kraus*  
Angela Kraus  
Director, Stakeholder Liaison Headquarters

SUBJECT: Disaster Assistance for the State of California  
(FEMA 1731-DR)

On October 24, 2007, the President declared the State California as a disaster area with certain counties determined by the Federal Emergency Management Agency (FEMA) to be eligible for Individual Assistance under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. §§ 5121-5206 (Stafford Act). The Presidential declaration was made after wildfires occurred on October 21, 2007. The counties designated by FEMA to be eligible for Individual Assistance, hereinafter referred to as the "IRS Designated Disaster Area" are shown in the Attachment. If FEMA declares additional counties eligible for Individual Assistance, the relief described in this memorandum will also apply to them.

For purposes of the following filing and payment relief, "affected taxpayers" includes taxpayers whose principal residence or principal place of business is located in the IRS Designated Disaster Area, taxpayers whose books or tax records or whose tax professionals' offices are located in the IRS Designated Disaster Area, and relief workers affiliated with a recognized government or philanthropic organization assisting with the relief activities in the IRS Designated Disaster Area.

Notice 1155 should be included as a stuffer for all correspondence addressed to taxpayers in the IRS Designated Disaster Area beginning October 24, 2007, and ending January 31, 2008. A zip code listing identifying the areas requiring Notice 1155 will be posted to the IRWeb at <http://www.icce.irs.gov/fema/2007/index.html>.

Disaster programming (-O) Freeze will be implemented with the disaster relief period beginning October 21, 2007 and ending January 31, 2008. The list of designated disaster areas identified for -O Freeze action is shown on the Attachment. It has also been provided to MITS and will be posted to the IRWeb at <http://www.icce.irs.gov/fema/2007/index.html>.

Affected taxpayers who reside or have businesses located outside the designated disaster area must call the IRS disaster toll free number, 1-866-562-5227, to self-identify for disaster relief.

#### Other Relief Provisions Which Apply Only To Affected Taxpayers

- Requests for photocopies of tax returns from taxpayers located in the IRS Designated Disaster Area should be expedited and user fees waived. These requests, when filed, should be labeled across the top margin in red "California Wildfires".
- Affected taxpayers that have an original return with a due date that falls on or after October 21, 2007, and before January 31, 2008, are granted an extension of time to file until January 31, 2008, under IRC Section 6081. This includes any return of income tax (e.g., individual, corporate, including S corporation, estate and trust income tax returns), estate, gift, and generation-skipping transfer tax returns; partnership information returns; employment and certain excise tax returns.
- Affected taxpayers that have an extended return due date that falls on or after October 21, 2007, and before January 31, 2008, are granted an extension of time to file until January 31, 2008, under IRC Section 6081. Taxpayers not eligible for the full extension of time to file because extensions are limited to 6 months by IRC Section 6081 will be granted additional time to file until January 31, 2008, under IRC Section 7508A.
- Affected taxpayers that have a payment of tax due on or after October 21, 2007, and before January 31, 2008, are granted an extension of time to pay until January 31, 2008, under IRC Section 6161. This extension of time does not apply to tax liabilities that were incurred prior to the disaster.
- Affected taxpayers that have an estimated tax payment originally due on or after October 21, 2007, and before January 31, 2008, will not be subject to penalties for failure to pay estimated tax installments as long as such payments are paid by January 31, 2008.
- Affected taxpayers that need to perform time-sensitive actions described in Treasury Regulation § 301.7508A-1(c)(1) and Rev. Proc. 2007-56, 2007-34 IRB 388, that fall on or after October 21, 2007, and before January 31, 2008, are granted additional time to act until January 31, 2008.

- Penalties for failure to file and failure to pay and interest will be abated automatically for the period beginning October 21, 2007, or the original due date, if later, and ending January 31, 2008, for all taxpayers located in the IRS Designated Disaster Area. Customer Service Representatives will abate penalties and interest for affected taxpayers located outside the designated disaster area who call to self-identify.
- The filing relief listed above also applies to Form 5500 series returns (that were required to be filed on or after October 21, 2007, and before January 31, 2008) in the manner described in Section 8 of Revenue Procedure 2007-56, 2007-34 IRB 388.

This extension to file and pay does not apply to information returns in the W-2, 1098, 1099, or 5498 series, to Forms 1042-S or 8027, or to employment and excise tax deposits. However, penalties on deposits due on or after October 21, 2007, and before November 5, 2007, will be abated as long as the tax deposits were made by November 5, 2007.

The State Disaster Assistance Coordinator may direct personnel from all operating divisions to conduct disaster assistance activities including staffing any Disaster Recovery Centers.

If you have any questions or comments, you may contact Carol Polley, National Disaster Assistance Program Coordinator, at (202) 283-4742.

*Attachment*

Distribution

Operating Division/Functional Division Disaster Assistance Program  
Coordinators (SB/SE, W&I, MITS, LMSB, TEGE, CI, TAS, C&L)

*Attachment*

IRS Designated Disaster Area for Notice 1155

Counties

Los Angeles  
Orange  
Riverside  
San Bernardino  
San Diego  
Santa Barbara  
Ventura

IRS Designated Disaster Areas Identified for –O Freeze and  
Suspension of Enforcement Activities

Counties

Los Angeles  
Orange  
Riverside  
San Bernardino  
San Diego  
Santa Barbara  
Ventura

## **ATTATCHMENT 2**

**Internal Revenue Service**

**Department of the Treasury**

**Person to Contact:**

Employee ID Number:

Tel:

Fax:

**Refer Reply to:**

Date:

**In Re:**

**Tax Period(s) Ended:**

Dear:

This letter is our acknowledgement that we received your case for consideration in our Appeals Office. However, we realize that your circumstances may have changed since you requested an Appeals hearing due to the recent wildfires that affected certain areas within Southern California.

Please let us know if you are currently able to proceed with the consideration of your case or if you will need time to obtain additional information and to meet with us.

Please contact us within 14 days of this letter to advise us how to proceed with your case. You may call us or write to us using the telephone number or address information shown above. If we do not hear from you we will make every attempt to contact you as quickly as possible and begin the consideration of your case.

Sincerely,

Enclosures:  
Notice 1155